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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/083,150	05/22/1998	BOUDIAF BOUSSOIRA	057250306000	3636

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EXAMINER
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WEBMAN, EDWARD J

ART UNIT	PAPER NUMBER
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1617

DATE MAILED: 01/18/2002

20

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/083150

Applicant(s)

BOUSSOURA

Examiner

WEBMAN

Group Art Unit

1617

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 10/16/01
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-44 is/are pending in the application.
- Of the above claim(s) 29-32, 36, 38-44 is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-28, 33-35, 37 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
  - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 18
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

Office Action Summary

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-23, 27, 28, 33, 35, 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolf et al. In view of Fanchon et al.

Wolf et al. Teach an anti-acne composition comprising 0.01-25% of a carrier complexed to active (abstract). 40%-50% active to 50-60% carrier is specified (column 4 lines 11-13). Protein and dendritic polymers are specified (column 2 lines 38-42. Column 3 lines 39-40). Emulsions are specified (column 4 lines 42-44). Titanium oxide is specified (column 6 line 34). Stearic acid and Jojoba oil are disclosed (column 5 line 53 and column 6 line 50).

Fanchon et al. Teach anti-anti-acne compositions containing antioxidants and nanopigments as active agents (title, Abstract, column 7 lines 7-9, 11, 13, 29-30).

It would have been obvious to one of ordinary skill to add an antioxidant and nanopigments to the composition of Wolf et al. To achieve the beneficial effect of additional anti-acne actives in view of Fanchon et al.

It would have been obvious to one of ordinary skill to add a EDTA to the compositions of preventing discoloration in view of Garrison et al.

As to the now claimed "effective amount", Wolf et al teaches a percent range of polymer overlapping applicants' claimed ranges (see claims 14-15).

Applicants' argue that Fanchon teaches only the optional use of nanopigments in ~~Fanchon~~. However, both Wolf et al and Fanchon are anti-~~oxidant~~ compositions. 3/15/02

Thus, the beneficial effect of nanopigments as protective agents in Fanchon et al would be known to one of ordinary skill in the art.

Applicants also argue that neither reference teaches the antioxidant property of the claimed polymer however, motivation to combine need not concern applicants' motivation to invention.

No claims allowed.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

This application contains claims 29, 31, 36, 37-44 drawn to an invention nonelected with traverse in Paper No. 7. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Art Unit: 1617

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward J Webman whose telephone number is 308-308-0570. The examiner can normally be reached on Monday through Friday from 9 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Minna Moezie, can be reached on (703) 308-0570. The fax phone number for the organization where this application or proceeding is assigned is 305-3592.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-1235.

Webman/LR

January 8, 2002



EDWARD J. WEBMAN  
PRIMARY EXAMINER  
GROUP 1500